

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

Marc Veasey, *et al.*,

Plaintiffs,

v.

RICK PERRY, *et al.*,

Defendants.

Civil Action No. 2:13-cv-193 (NGR)

JOINT PRETRIAL ORDER

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II. STATEMENT OF THE CASE

These consolidated cases address the voting rights claims of Plaintiffs and Plaintiff-Intervenors against the State of Texas, Rick Perry in his official capacity as Governor of the State of Texas, Nandita Berry in her official capacity as Texas Secretary of State, and Steve McCraw in his official capacity as Director of the Texas Department of Public Safety. Specifically, Plaintiffs are challenging the Texas Voter Photo Identification Law, Texas Senate Bill 14 (2011) (SB 14).

SB 14 requires a voter to show one of seven forms of photo identification when voting in person: (1) a Texas Driver License, (2) a Texas Personal Identification Card, (3) a Texas Concealed Handgun License, (4) a United States Military Identification Card, (5) a United States Citizenship Certificate, (6) a United States Passport, or (7) a Texas Election Identification Certificate. All forms of identification except for a United States Citizenship Certificate must be unexpired or have expired no earlier than 60 days before the date of presentation. Moreover, the name contained on a voter's photo identification must match the name on the poll book or be substantially similar thereto.

Plaintiffs allege that Texas's implementation and enforcement of SB 14 will interact with social and historical conditions in Texas to deny equal opportunities for Hispanic and African-

American voters to participate in the political process, resulting in a denial or abridgment of the right to vote in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. Plaintiffs also allege that SB 14 was adopted by Texas in 2011, and has been maintained since that time, at least in part for the purpose of denying Hispanics and African Americans equal access to the political process in violation of Section 2 of the Voting Rights Act. Individual plaintiff groups further allege that SB 14 violates the First, Fourteenth, Fifteenth, and Twenty-Fourth Amendments to the United States Constitution.

III. JURISDICTION

The Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1343, 1345, 1357, 2201, and 2284; and pursuant to 42 U.S.C. §§ 1973, 1973j(f).

IV. MOTIONS

A. Plaintiffs' Pending/Anticipated Motions

1. U.S. Motion to Determine the Sufficiency of Defendants' Responses to the United States' Corrected Second Set of Requests for Admission (ECF No. 459)
2. U.S. Motion to Strike Defendants' Affirmative Allegations and Defenses (ECF No. 456)
3. Plaintiffs' Joint Motion to Unseal Documents and Testimony [not yet filed]
4. U.S. Motion in Limine to Admit Declarations of County Officials (ECF No. 492)
5. U.S. Motion in Limine to Admit Prior Deposition and Trial Testimony (ECF No. 491)
6. Anticipated motions to withdraw Peggy Draper Herman and Belinda Ortiz as plaintiffs.

B. Defendants' Pending/Anticipated Motions

1. ECF No. 469. Defendants' Motion to Compel Production of Documents and Additional Deposition Testimony from Various Individual and Organizational Plaintiffs.

2. ECF No. 343. Defendants' Motion to Compel Ortiz and Veasey-LULAC Plaintiffs to Answer Defendants' First Set of Interrogatories.

3. ECF No. 454. Defendants' Opposed Motion to Compel the United States, Veasey-LULAC, and Texas NAACP-MALC to Produce Expert Disclosures and the United States to Produce Documents Responsive to the defendants' Fourth Requests for Production.

V. CONTENTIONS OF THE PARTIES

The parties refer the Court to their respective Proposed Findings of Fact and Conclusions of Law.

VI. ADMISSIONS OF FACT

The parties refer the Court to their respective Proposed Findings of Fact.

VII. CONTESTED ISSUES OF FACT

The parties refer the Court to their respective Proposed Findings of Fact.

VIII. AGREED PROPOSITIONS OF LAW

The parties refer the Court to their respective Conclusions of Law.

IX. CONTESTED PROPOSITIONS OF LAW

The parties refer the Court to their respective Conclusions of Law.

X. EXHIBITS

A. Attached as Exhibit A is Plaintiffs and Plaintiff-Intervenors' Joint Exhibit List. Attached as Exhibit B is Defendants' Exhibit List. The parties have agreed to exchange and provide to the Court electronic copies of all proposed exhibits as well as electronic copies of the exhibit lists with hyperlinks to each exhibit.

B. The parties have agreed to serve all objections to exhibits (including as to authenticity) by August 29, 2014.

XI. WITNESSES

A. Attached as Exhibit C is Plaintiffs and Plaintiff-Intervenors' Joint Witness List. Attached as Exhibit D is Defendants' Witness List. The lists identify the witnesses the parties intend to call live at trial and those that will be offered via video and deposition designation. The parties have agreed that the testimony of any witness who testified by way of deposition (video or stenographic) in this case is admissible as if the witness were testifying live.

B. If any parties so choose, they may present all or part of the expert's testimony by way of submission of the expert's declaration, so long as the expert is available at trial for cross-examination on all aspects of the expert's direct testimony and declaration.

C. If other witnesses to be called at the trial become known, their names, addresses, and subject of their testimony will be reported to opposing counsel in writing as soon as they are known; this does not apply to rebuttal or impeachment witnesses.

XII. SETTLEMENT

The parties have conferred and were unable to resolve this case.

XIII. TRIAL

A. Length: The parties anticipate that the trial will last up to 14 trial days. As per the Court's prior order, each side (Plaintiffs and Plaintiff-Intervenors as one side collectively and Defendants as the other side) will have 40 hours to present their case, including openings (which are optional), direct and re-direct examinations, and cross-examinations. The Court's clerk will advise the parties at the close of each trial day how much time each side has used. The Court will decide on the amount of time for closings near the conclusion of trial.

B. Other Trial Procedures:

1. The parties have agreed to provide opposing counsel 24 hour advance notice of witnesses they expect to call to testify. Before the commencement of a court day, the party expecting to call a witness at any time during the next court day will provide that name to opposing counsel. If the witness is expected to be called on a Monday, the party expecting to call that witness will provide that name to opposing counsel no later than 9:00 a.m. the Sunday morning prior to the expected Monday testimony.

2. The parties have agreed to provide opposing counsel with any demonstratives to be used on direct examination by close of business the day before a demonstrative is to be used.

Date: August 22, 2014

Respectfully submitted,

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